
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BRIAN REED,

Plaintiff,

v.

**STATE OF UTAH and WEST VALLEY
CITY POLICE DEPARTMENT,**

Defendants.

**ORDER AFFIRMING
REPORT & RECOMMENDATION**

Case No. 2:08cv49DAK

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge Paul Warner under 28 U.S.C. § 636(b)(1)(B). Before Magistrate Judge Warner, Defendants filed motions to dismiss. On August 14, 2008, Magistrate Judge Warner issued a Report and Recommendation, recommending that the State of Utah's motion to dismiss should be granted, the West Valley Police Department's Motion to Dismiss should be deemed moot, and Plaintiff's claims against the West Valley Police Department should be dismissed pursuant to the in forma pauperis statute.


The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation was required to be filed within ten days of receiving it. On August 21, 2008, Plaintiff filed a letter addressed to Magistrate Judge Warner disagreeing with the Report and Recommendation. The court construes this letter as Plaintiff's objections. The court has also reviewed the file in this matter *de novo*.

Plaintiff's objections focus on the facts of his case. However, Magistrate Judge Warner's Report and Recommendation accepted Plaintiff's facts and liberally construed those facts in favor of Plaintiff. Nonetheless, as unfortunate as the facts may be, the law does not provide a remedy to Plaintiff. Plaintiff's recent letter states that he should be entitled to "voice the case no matter what." Our court system does not operate that way. Plaintiff has had an opportunity to state his claims. However, if his claims do not adequately state a claim provided for by law, Plaintiff is not entitled to proceed to a trial.

Magistrate Judge Warner properly concluded that, under the law, the State is an improper party in Section 1983 and 1985 cases. In addition, the court agrees with Magistrate Judge Warner that Plaintiff's claims should be dismissed against West Valley City under the in forma pauperis statute. Accordingly, the court adopts and affirms the Magistrate's Report and Recommendation as discussed above. It is, therefore, the order of the court that Plaintiff's case be dismissed. The clerk of court is directed to enter judgment in favor of Defendants. This case is closed, each party to bear its and his own fees and costs.

DATED this 27th day of August, 2008.

BY THE COURT:



DALE A. KIMBALL
United States District Judge